



# Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811

Phone 410-641-2770 Fax 410-641-2316

[www.berlinmd.gov](http://www.berlinmd.gov)



**Mayor**  
Wm. Gee Williams, III

**Vice President**  
Elroy Brittingham, Sr.

**Council Members**  
Dean Burrell, Sr.  
Lisa Hall  
Paula Lynch  
Troy Purnell

**Town Attorney**  
David Gaskill

**Town Administrator**  
Anthony J. Carson, Jr.

## BERLIN, MARYLAND

### MAYOR AND COUNCIL MEETING

**MONDAY, JANUARY 10, 2011**

**COUNCIL CHAMBERS – BERLIN TOWN HALL  
10 WILLIAM STREET  
BERLIN, MD 21811**

EXECUTIVE SESSION .....6:00 PM

REGULAR SESSION .....7:00 PM

*Anyone having questions about the meetings mentioned above or needing special accommodations should contact Tony Carson, Town Administrator at (410) 641-4144*

*TTY users dial 7-1-1 in the State of Maryland*

*TTY users outside Maryland dial 1-800-735-2258*

**BERLIN MAYOR AND COUNCIL  
COUNCIL MEETING  
AGENDA  
Monday, January 10, 2011**

**6:00 PM      EXECUTIVE SESSION - Berlin Conference Room**

**7:00 PM      REGULAR SESSION – Berlin Town Hall Council Chambers**

1.    Approval of the Minutes for:  
     Joint Meeting Minutes on December 8<sup>th</sup>, 2010  
     Regular Session of the Mayor and Council on December 13, 2010.  
     Executive Session of the Mayor and Council on December 20, 2010  
     Statement of Closure of Mayor and Council on December 20, 2010
2.    Special Sunday Permit Approval – Boggs Disharoon American Legion Post 123  
     Sunday, February 6, 2011 for Super Bowl Party
3.    Appointments to Boards/Commissions
  - a.    Housing Board of Review
  - b.    Historic District Commission
4.    Presentation – Dwight Davis of Booth and Associates
  - a.    PJM Membership – Motion to Approve Submission of Application
  - b.    Process involved with solicitation of Purchase Power Agreement
5.    Request for 60 day Extension of EDU Resolution for Schuster Properties
6.    Amendments to Personnel Policy
  - a.    Cell Phone Usage
  - b.    Vehicle Gas Card
7.    Introduction – Ordinance 2011-01  
     An ordinance authorizing and empowering the Mayor and Council to issue and sell one or more series of general obligation bonds in an aggregate principal amount not to exceed \$10,000,000.00 for the purpose of financing, reimbursing or refinancing all or a portion of the cost of one or more activities relating to the project referred to as the “Effluent Storage and Irrigation System Project”. Public hearing to be held on January 24, 2011.
8.    Departmental Reports
  - a.    Finance
  - b.    Deputy Town Administrator
  - c.    Public Works
  - d.    Water Resources
  - e.    Electric
  - f.    Police

- g. Planning and Zoning
- h. Human Resources
- i. Economic and Community Development

- 9. Town Administrator's Report
- 10. Comments from the Mayor
- 11. Comments from the Council
- 12. Comments from the Public
- 13. Comments from the Press
- 14. Adjournment

**JOINT MEETING BETWEEN  
MAYOR AND COUNCIL  
AND  
BERLIN UTILITY COMMISSION**

**WEDNESDAY, DECEMBER 8, 2010**

The joint meeting between the Mayor and Council and the Berlin Utility Commission was held on Wednesday, December 8<sup>th</sup> beginning at 6:25 p.m. Those persons in attendance were Mayor Gee Williams, Councilmembers Lynch, Burrell, Brittingham, Hall and Purnell, Town Administrator Tony Carson, Electric Utility Director Tim Lawrence, Finance Director Lynn Musgrave, Town Attorney David Gaskill and Administrative Assistant Sharon Timmons. Also in attendance were Commission president Erik Quisgard, Commission members Sue Beaman, Jason Walter, Bob Mitchell and Sean Coughlin, Booth and Associates consultant Dwight Davis and Arnold Boughner from Easton Utilities.

Mayor Williams gave a positive overview on the progress made on the utility company and stated that the Town was at a critical turning point. He asked the BUC to discuss the information heard tonight at their meeting to be held on December 21<sup>st</sup> and be ready to make a recommendation to the Mayor and Council at the meeting to be held on December 27<sup>th</sup> regarding the PJM membership and solicitation process. He referred to the memo sent earlier in the day regarding the timelines which would need to be met. Two key components to moving to the next step are a more competitive power supply agreement and the filing of a new rate case to the Public Service Commission. He suggested that the BUC revisit the idea of working with a broker. Several options through the PJM membership are contracting 100% of energy needs, 50% purchase through PJM grid and 50% contracted or purchase through PJM if a contract was not acceptable.

Dwight Davis of Booth and Associates stated that he endorsed the Mayor's suggestions and spoke regarding the recent PSC hearing. He stated that the purpose of the hearing was to evaluate the last 12 months for PCA billing vs. costs incurred and the ACA reconciliation would begin this month. Currently the credit is \$.24 per 1000 KWh, but would be increased to \$1.48 per 1000 KWh. The PSC's future focus from the town was the pursuance of a competitive process for bids towards a new power supply agreement. Mr. Davis stated that one of the benefits of membership with PJM was more flexibility in purchasing power and the Town would be in a stronger position to negotiate with suppliers. The PSC requested that the Town provide them with copies of proposals received by the Town after the evaluation. He continued with an explanation of the ACA charge.

Mr. Davis began his explanation of the PJM application and fees associated. The draft application had been sent and PJM inquired as to how the Town would address technical requirements and defaults. He stated that there was a provision in the agreement which stated that the Town could ask for an exemption from the default indemnification if State law concurs. Mr. Davis stated that he felt the Town should submit that request even though PJM has tightened up the credit criteria. Mr. Davis explained that there is an application fee of \$5,000, an annual fee of \$5,000 plus a fee of \$1,500 regarding a credit application. There could also be annual administrative costs of \$5,000 or less for representation at required meetings in lieu of the Town's attendance and transmission costs. He stated that Delmarva Power can provide settlements on energy use at no charge. There could be a cost for assesment for working capital.

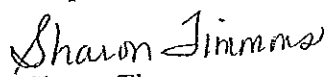
Mayor Williams left the meeting due to a prior commitment.

BUC member Jason Walter inquired if additional staffing requirements would be needed at the Power Plant. Mr. Davis replied that he did not anticipate the need. Mr. Quisgard inquired about the requirements regarding generation. Mr. Davis replied that the Town still needed to operate as they had been in the summer months. Mr. Quisgard asked to have the numbers given to Booth and Associates on the cost savings. Mr. Carson stated that the Town's savings from operating during the peaks were \$600,000.

Mr. Arnold Boughner of Easton Utilities gave a background of how they came to become members of PJM. He continued with explanations of the benefits of membership, associated costs, the different markets, the use of CES (Customized Energy Solutions) and contract pricing. The advantages include getting rid of the middle man and revised capacity marketing. He continued in reporting that operators must be certified and that additional training would be required each year to maintain that status. Discussion continued regarding the use of CES and contract pricing. Discussion regarding "a day ahead vs. real time markets" continued. Councilmember Lynch asked Mr. Davis what his recommendation was concerning PJM membership and he replied that he recommended the Town join the membership. He continued in recommending that the Town speak with CES regarding what services are needed and costs for the basic services and then set up a master agreement contract with suppliers. Tony and Dwight will begin contacting to get costs or preliminary estimates. Discussion continued.

The meeting ended at 8:30 p.m.

Respectfully submitted,

  
Sharon Timmons  
Administrative Assistant

MAYOR AND COUNCIL OF BERLIN, MARYLAND  
Regular Session Council Minutes  
Monday, December 13, 2010

The meeting of the Mayor and Council for Monday, December 13, 2010 was called to order by Mayor Williams at approximately 7:06 p.m. Council Members Lynch, Purnell, Brittingham, Burrell and Hall were present, as well as Town Administrator Tony Carson, Town Attorney David Gaskill, Director of Community and Economic Development Michael Day, Finance Director Lynn Musgrave, Deputy Town Administrator Mary Bohlen, Administrative Assistant Sharon Timmons, Public Works Director Mike Gibbons, Electric Utility Director Tim Lawrence, Planning and Zoning Director Chuck Ward, Police Chief Arnold Downing and Human Resources Director Jeff Fleetwood. Director of Water Resources Jane Kreiter was absent.

Following the recitation of the Lord's Prayer and the Pledge of Allegiance, Mayor Williams asked for approval of the Executive Session Minutes of November 22, 2010. Councilmember Brittingham made a motion to approve the minutes and council voted unanimously to approve 5-0. Mayor Williams asked for approval of the Regular Session Minutes of November 22, 2010. Councilmember Lynch made a motion to approve the minutes and council voted unanimously to approve 5-0. Mayor Williams stated that the Executive Session was closed to discuss the acquisition of real property for a public purpose. Mayor Williams asked for approval of the Executive Minutes of December 8, 2010. Councilmember Lynch made a motion to approve the minutes and council voted unanimously to approve 4-1 with Councilmember Purnell abstaining. Mayor Williams stated that the Executive Session was closed to discuss the acquisition of real property for a public purpose.

Leslie Michalik and Mike Kleger from Pigg, Krahel & Stern came before the council for the FY10 Audit Presentation. Despite finding some weaknesses and deficiencies in bank reconciliations, utilities and taxes, Mr. Kleger stated that the Town overall was in an extremely strong position, especially in the General and Electric funds. Ms. Michalik went into further explanation of the report. Mayor Williams requested that Finance Director Lynn Musgrave address the issues in the letter from PKS. Ms. Musgrave stated that the bank reconciliations were complete through September and that October and November should be completed this week. She continued with explanations of how the new accounting system will and has already begun to alleviate some of the issues. Ms. Musgrave also explained the changes regarding use of Town credit and gas cards. Councilmember Burrell requested for a monthly report on the status of the reconciliations and transfers to the new system for any pitfalls or shortcomings. Town Administrator Tony Carson stated that new policies regarding gas cards and cell phones would be introduced at the next meeting for approval. Discussion followed.

Town Administrator Tony Carson explained the motion regarding the updating of the Town Standards to add residential sprinklers. Mr. Carson stated that the Town Standards currently address commercial meters allowing the use of a ¾" meter service line. The change would allow utilization of the existing ¾" service line for a residential/domestic sprinkler if it is determined by the sprinkler system provider that adequate flow is obtainable from the service line and that the size of the meter will be determined by the plumbing contractor and/or the sprinkler system provider with the approval of the Water Resources department. Councilmember Purnell made a motion to approve the updating of the Town Standards for residential sprinklers and council voted unanimously to approve 5-0.

Mayor Williams asked for any brief comments from the public regarding Ordinance 2010-13, an ordinance exempting the Town from the requirements of Section R313.2 of the International residential code which mandates the installation of automatic residential fire sprinkler systems in all new one and two family dwelling effective January 1, 2011. The state law goes into effect January 1, 2011, but counties and municipalities may opt out of the law. The public hearing was held on November 22, 2010. John Kotoski came forward and presented a picture of a billboard showing the importance of smoke detectors, not sprinkler systems. Ron Cascio stated that he did not support the county mandate because they do not have town water. He continued by saying that single family home owners should have the right to choose if they install a sprinkler system, but he did feel the need to have them in duplexes. There being no further comments, Mayor Williams asked for a motion. Councilmember Purnell made a motion to un-table the motion for consideration and council voted unanimously to approve 5-0. Councilmember Lynch stated that the Town of Pocomoke had chosen to opt out

of the mandate. Councilmember Purnell stated that duplexes are required to have firewalls. Discussion continued. Councilmember Purnell made a motion to amend Ordinance 2010-13 removing "and two" from the introduction of the Ordinance and council voted in favor to amend 4-1 with Councilmember Hall opposing. Councilmember Hall inquired as to the mandate of sprinkler systems in manufactured homes and Councilmember Purnell stated that manufactured homes are automatically equipped with sprinkler systems. Councilmember Purnell made a motion to approve amended Ordinance 2010-13 and council voted in favor 4-1 with Councilmember Hall opposing.

Economic and Community Development Director Michael Day and Main Street Design Committee member Barb Stack came before the council for approval of the Special Event known as New Year's Eve Celebration to be held on December 31<sup>st</sup> from 10:30 p.m. to 12:30 a.m. Mr. Day explained that there was no charge for the event which would consist of a DJ for dancing and a ball drop. Council commented that they thought it was a great idea. Discussion followed. Councilmember Hall made a motion to approve the event and council voted unanimously to approve 5-0.

Departmental reports began with Finance Director Lynn Musgrave stating that a weekly meeting is held with Logics regarding the new software system.

Deputy Town Administrator Mary Bohlen reported that the Town web page still requires a bit more tweeking in some areas, but for the most part is complete and staff is learning to update areas which are pertinent to their departments.

Public Works Director Mike Gibbons reported that a dedication had taken place on December 2<sup>nd</sup> at Stephen Decatur Park for the new plaque by the anchor, the concrete sidewalk repair work was complete with the exception of a few spots on Flower Street, the railroad work at Broad Street had been completed and he had received estimates of \$2,500 for filling of cracks on Buckingham Lane. He continued reporting that an estimate of \$25,000 had been received on the overlay of Buckingham Lane from Main Street to West Street. The monies required for the overlay need to be included in the capital budget for FY12. Discussion continued on the installation of a guard rail and small plants along the ditch on Flower Street.

Electric Utility Director Tim Lawrence reported on the relocation project for the utility poles on Flower Street. He stated that any residents involved would be notified well in advance to the work being done due to electric service being terminated for a short period of time. He continued reporting that relay and emissions testing would be taking place at the Power Plant and he was working on specification standards for induction lighting.

Police Chief Arnold Downing reported a successful Christmas parade and thanked coordinator Gail West and the various Police departments which assisted with the event. He continued his report with announcing that Sunrise Church was requesting an exemption on park hours for a food giveaway on December 23<sup>rd</sup> from 5 p.m. to 7 p.m. at Henry Park. Councilmember Burrell made a motion to allow Sunrise Church to use the park from 5 p.m. to 7 p.m. for their event and council voted unanimously to approve 5-0.

Planning and Zoning Director Chuck Ward gave a report summarizing issuance of permits, code violations, adopted ordinances, meetings and staff support over the past year. A copy of this report is included as part of the minutes.

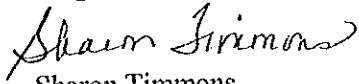
Human Resources Director Jeff Fleetwood reported that he was currently examining files to ensure compliance.

Economic and Community Development Director Michael Day thanked the various departments for their assistance on Arts Night. He thanked Becker Morgan for pro-bono work done on the Multipurpose building regarding needed renovations. A copy of the report was given to Town Administrator Tony Carson. Mayor Williams asked for a list of needs to be completed by the end of February.

Town Administrator Tony Carson presented 10 purchase orders (20110336, 20110394, 20110353, 20110464, 20110381, 20110483, 20110490, 20110304, 20110482 and 20110531) for approval. This report will be included as part of the minutes. Discussion followed. Vice President Brittingham made a motion to approve the purchase orders as presented and council voted unanimously to approve 5-0.

Mayor Williams asked for comments from the council. There being none, Mayor Williams asked for questions from the public. Ms. Jane Worton of Hudson Street asked for assistance regarding traffic flow on her street due to patients attempting to reach the doctor's offices. This street is a dead end street. Mayor Williams inquired if Public Works Director Mike Gibbons would investigate some type of directional sign and report back. There being no additional comments or questions from the public or the press, Councilmember Burrell made a motion to adjourn and the meeting ended at 8:55 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Sharon Timmons".

Sharon Timmons  
Administrative Assistant



ORDINANCE NO. 2011-01

AN ORDINANCE OF THE COUNCIL OF THE MAYOR AND COUNCIL OF BERLIN TO AUTHORIZE AND EMPOWER MAYOR AND COUNCIL OF BERLIN (THE "TOWN") TO ISSUE AND SELL FROM TIME TO TIME, UPON ITS FULL FAITH AND CREDIT, ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000.00, EACH SERIES OF BONDS TO BE ISSUED AND SOLD FOR THE PUBLIC PURPOSE OF FINANCING, REIMBURSING OR REFINANCING ALL OR A PORTION OF THE COST OF ONE OR MORE ACTIVITIES RELATING TO UPGRADING THE TOWN'S WASTEWATER TREATMENT SYSTEM BY UNDERTAKING A PROJECT REFERRED TO AS THE "EFFLUENT STORAGE AND IRRIGATION SYSTEM PROJECT", WHICH INCLUDES, WITHOUT LIMITATION, ACQUIRING CERTAIN PROPERTY, EXTENDING A LINE OR LINES FROM AN EXISTING SPRAY SITE TO THE NEW PROPERTY, CONSTRUCTING AND EQUIPPING A SPRAY IRRIGATION AND DISPOSAL SYSTEM ON SUCH NEW PROPERTY, AND UNDERTAKING RELATED ACTIVITIES, TOGETHER WITH THE ACQUISITION OF NECESSARY PROPERTY RIGHTS AND EQUIPMENT, RELATED SITE AND UTILITY IMPROVEMENTS AND RELATED PLANNING, DESIGN, ENGINEERING, CONSTRUCTION, INSTALLATION, IMPROVEMENT, EQUIPPING, FINANCIAL, AND LEGAL EXPENSES AND COSTS OF ISSUANCE AND, IF THE COUNCIL SO DETERMINES BY RESOLUTION, INTEREST DURING CONSTRUCTION AND FOR A REASONABLE PERIOD THEREAFTER; DETERMINING THAT ANY SUCH SERIES OF BONDS BE SOLD AT A PRIVATE NEGOTIATED SALE AND NOT AT PUBLIC SALE, UNLESS OTHERWISE PROVIDED IN A RESOLUTION; AUTHORIZING THE ADOPTION OF A RESOLUTION OR RESOLUTIONS TO DETERMINE AND PROVIDE FOR VARIOUS MATTERS RELATING TO THE AUTHORIZATION, SALE, SECURITY, ISSUANCE, DELIVERY, PAYMENT AND PREPAYMENT OF AND FOR ANY SERIES OF BONDS; AUTHORIZING THE ISSUANCE AND SALE FROM TIME TO TIME OF ONE OR MORE SERIES OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$10,000,000.00, PRIOR TO AND IN ANTICIPATION OF ANY SERIES OF BONDS, IN ORDER TO FINANCE PROJECT COSTS ON AN INTERIM BASIS AND TO PAY RELATED COSTS, INCLUDING ISSUANCE COSTS AND CAPITALIZED INTEREST; AUTHORIZING THE ISSUANCE AND SALE FROM TIME TO TIME OF ONE OR MORE SERIES OF GENERAL OBLIGATION BONDS IN ORDER TO REFUND ANY BONDS ISSUED PURSUANT TO THE AUTHORITY OF THIS ORDINANCE AND TO PAY RELATED COSTS, INCLUDING ISSUANCE COSTS AND FUNDED INTEREST, PROVIDED THAT, THE AGGREGATE PRINCIPAL AMOUNT OF ANY SUCH ISSUE OF REFUNDING BONDS MAY NOT EXCEED 130% OF THE AGGREGATE PRINCIPAL AMOUNT OF THE BONDS REFUNDED THEREFROM; PROVIDING THAT ANY SUCH SERIES OF BOND ANTICIPATION NOTES OR REFUNDING BONDS SHALL BE SOLD BY NEGOTIATION AT PRIVATE SALE UNLESS OTHERWISE PROVIDED BY RESOLUTION AND AUTHORIZING THE ADOPTION OF A RESOLUTION OR RESOLUTIONS TO MAKE ANY FURTHER DETERMINATIONS DEEMED NECESSARY OR DESIRABLE IN CONNECTION WITH THE ISSUANCE OF ANY SUCH SERIES OF BOND ANTICIPATION NOTES OR REFUNDING BONDS; PROVIDING THAT DEBT SERVICE ON ANY SUCH SERIES OF

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BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS WILL BE PAYABLE IN THE FIRST INSTANCE FROM WASTEWATER SYSTEM REVENUES AND, IF REQUIRED BY ANY APPLICABLE LENDER, FROM WATER SUPPLY SYSTEM REVENUES, TO THE EXTENT SUCH REVENUES ARE LAWFULLY AVAILABLE FOR SUCH PURPOSE; PLEDGING THE FULL FAITH AND CREDIT AND UNLIMITED TAXING POWER OF THE TOWN TO THE PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS; PROVIDING FOR THE LEVY OF AD VALOREM TAXES UPON ALL REAL AND PERSONAL PROPERTY WITHIN THE TOWN'S CORPORATE LIMITS SUBJECT TO ASSESSMENT FOR UNLIMITED MUNICIPAL TAXATION TO PAY THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS IN EACH FISCAL YEAR, SUBJECT TO REDUCTION TO THE EXTENT OTHER REVENUES OR FUNDS ARE AVAILABLE FOR SUCH PURPOSE; PROVIDING THAT THE PRINCIPAL OF AND INTEREST ON ANY SUCH SERIES OF OBLIGATIONS ALSO MAY BE PAID FROM ANY OTHER SOURCES OF REVENUE LAWFULLY AVAILABLE TO THE TOWN FOR THAT PURPOSE; PROVIDING THAT ANY OF THE BONDS, THE BOND ANTICIPATION NOTES OR THE REFUNDING BONDS AUTHORIZED HEREBY MAY BE CONSOLIDATED WITH ANY BONDS, BOND ANTICIPATION NOTES AND/OR REFUNDING BONDS AUTHORIZED BY ONE OR MORE OTHER ORDINANCES OF THE COUNCIL AND ISSUED AS A SINGLE SERIES OF BONDS, BOND ANTICIPATION NOTES AND/OR REFUNDING BONDS; AUTHORIZING AND DIRECTING OFFICIALS AND EMPLOYEES OF THE TOWN TO TAKE ANY AND ALL ACTION NECESSARY TO COMPLETE AND CLOSE THE ISSUANCE, SALE AND DELIVERY OF ANY SUCH SERIES OF BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS; AND OTHERWISE GENERALLY RELATING TO THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF AND FOR ANY SUCH SERIES OF BONDS, BOND ANTICIPATION NOTES OR REFUNDING BONDS.

#### RECITALS .

WHEREAS, Mayor and Council of Berlin, a municipal corporation of the State of Maryland (the "Town"), is authorized and empowered by Sections 31 to 37, inclusive, of Article 23A of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Enabling Act"), and Sections C7-19, C7-19.1 and C7-21 of the Charter of the Town of Berlin, as published in Municipal Charters of Maryland, Volume 1, 2008 Replacement Edition, as replaced, supplemented or amended (the "Charter"), to borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, the Town has determined to upgrade the Town's wastewater treatment system by undertaking a project referred to as the "Effluent Storage and Irrigation System Project", which includes, without limitation, acquiring certain property, extending a line or lines from an existing spray site to the new property, constructing and equipping a spray irrigation and disposal system on such new property, and undertaking related activities, together with the acquisition of necessary property rights and equipment, related site and utility improvements and related planning, design, engineering, construction, installation, improvement, equipping, financial, and legal expenses, and has determined to borrow money for the public purpose of

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financing, reimbursing or refinancing costs of such activities, costs of issuance and, if the Council so determines by resolution, interest during construction and for a reasonable period thereafter; and

WHEREAS, the United States Department of Agriculture, acting through Rural Development or the Rural Utilities Service, or any related department, division, agency or instrumentality (any such entity, "USDA"), has preliminarily indicated that it can loan the Town up to \$10,000,000.00 for project purposes; and

WHEREAS, the Town presently intends to borrow money needed for project purposes from USDA; and

WHEREAS, notwithstanding the Town's present expectation to borrow money from USDA, the Council, by a resolution or resolutions, may provide for the sale of any series of the bonds authorized hereby to any other purchaser or purchasers or to any combination of USDA and any other purchasers; and

WHEREAS, prior to issuing all or any portion of the bonds authorized hereby, the Town expects that it will need to obtain interim financing in order to finance project costs on a timely basis through the issuance of one or more series of its general obligation bond anticipation notes pursuant to the authority of Section 12 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Bond Anticipation Note Enabling Act"); and

WHEREAS, subsequent to the issuance of any series of bonds authorized hereby, the Town may desire to refund or advance refund all or a portion of such series of bonds pursuant to the authority of Section 24 of Article 31 of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Refunding Act"); and

WHEREAS, it is intended that any series of bonds, bond anticipation notes or refunding bonds issued pursuant to the authority of this Ordinance and any other applicable law may be issued as one or more bonds or notes, as applicable, and any of such bonds or notes may be issued in the form of a draw-down and/or installment bond or note as provided herein, as applicable; and

WHEREAS, the Town has determined to pledge its full faith and credit and unlimited taxing power to the prompt payment of debt service on any series of bonds, bond anticipation notes or refunding bonds authorized hereby but the Town expects to pay the principal of and interest on any such series of bonds, bond anticipation notes or refunding bonds in the first instance from revenues received in connection with the operation of the wastewater system serving the Town, including fees for use of or connection to such system and, if required by any applicable lender, from revenues received in connection with the operation of the Town's water supply system, including fees for use of or connection to such system, all to the extent such revenues are lawfully available for such purpose; provided that, to the extent required by any applicable lender the Town may use proceeds of any bonds authorized hereby to pay debt service on any bond anticipation notes issued for project purposes, and the Town may apply proceeds of any refunding bonds

authorized hereby to pay debt service on any bonds issued pursuant to the authority of this Ordinance; and

WHEREAS, the Town has determined to issue any series of bonds, bond anticipation notes or refunding bonds authorized hereby in accordance with the terms and conditions provided for in a resolution or resolutions to be adopted by the Council pursuant to this Ordinance.

SECTION 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COUNCIL OF MAYOR AND COUNCIL OF BERLIN that the Recitals to this Ordinance are deemed a substantive part of this Ordinance and are incorporated by reference herein. Capitalized terms used in Sections 2 through 16 of this Ordinance and not defined herein shall have the meanings given to such terms in the Recitals.

SECTION 2. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and any other applicable law, the Town hereby determines to borrow money and incur indebtedness for the public purpose of financing, reimbursing or refinancing all or a portion of the cost of any one or more activities relating to upgrading the Town's wastewater treatment system by undertaking a project referred to as the "Effluent Storage and Irrigation System Project", which includes, without limitation, acquiring certain property, extending a line or lines from an existing spray site to the new property, constructing and equipping a spray irrigation and disposal system on such new property, and undertaking related activities, together with the acquisition of necessary property rights and equipment, related site and utility improvements and related planning, design, engineering, construction, installation, improvement, equipping, financial, and legal expenses and costs of issuance and, if the Council so determines by resolution, interest during construction and for a reasonable period thereafter (collectively, the "Project"). The total cost of the Project not otherwise payable from other sources, including (without limitation) any grants made to the Town by the United States Department of Agriculture, the Community Development Block Grant program or the Maryland Department of the Environment, is not expected to exceed Ten Million Dollars (\$10,000,000.00). Proceeds of the Bonds (as defined in Section 3) may be applied to prepay or pay principal, premium and/or interest on any BANs (as defined in Section 8) incurred by the Town for the Project, and any such expenditure shall be considered an expenditure for Project purposes.

SECTION 3. BE IT FURTHER ORDAINED AND ENACTED that to evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the Town, acting pursuant to the authority of the Enabling Act, the Charter and any other applicable law, hereby determines to issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bonds in an aggregate principal amount not to exceed Ten Million Dollars (\$10,000,000.00) (individually, a "Bond" and, collectively, the "Bonds"). Each Bond shall be designated as the Council may determine in the Resolution (as defined in Section 7). Any such series may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form.

SECTION 4. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and any other applicable law, the Town hereby

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determines to sell each series of the Bonds at a private negotiated sale and not at public sale due to the attractive loan program offered by USDA or, for any series of bonds sold to another purchaser, the ability to time the market, negotiate terms, and thereby achieve a beneficial interest rate or rates and other beneficial terms, unless, pursuant to the Resolution, the Council determines to sell any such series of the Bonds at public sale after solicitation of competitive bids upon determining that such a public sale is in the best interests of the Town.

SECTION 5. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and any other applicable law, and subject to any limitations contained therein, the Town hereby determines and provides that each series of the Bonds shall be issued and sold for a price or prices as provided in the Resolution.

SECTION 6. BE IT FURTHER ORDAINED AND ENACTED that the proceeds of each series of the Bonds shall be used and applied by the Town exclusively and solely for the public purposes described in Section 2 of this Ordinance, unless a supplemental ordinance is enacted by the Council to provide for the use and application of such proceeds for some other proper public purpose authorized by the Enabling Act, the Charter or other applicable law.

SECTION 7. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Enabling Act, the Charter and this Ordinance, the Council, prior to the issuance, sale and delivery of any series of the Bonds, shall adopt a resolution or resolutions (individually or collectively, the "Resolution") specifying, prescribing, determining, providing for and approving such matters, details, forms (including, without limitation, the complete form of the Bonds of such series), documents or procedures as may be required by the Enabling Act, the Charter, other applicable law or this Ordinance or as the Council may deem appropriate for the authorization, sale, security, issuance, delivery, payment or prepayment of or for such series of the Bonds. The Resolution shall set forth, contain, determine or provide for the determination of, or approve or provide for the approval of, among other things, the designation of such series of the Bonds; the aggregate principal amount of such series of the Bonds; the denominations of such series of the Bonds; the maturity or maturities of such series of the Bonds; the principal installment or installments, or the method of determining the principal installment or installments, payable on such series of the Bonds; the rate or rates of interest, or the method of determining the rate or rates of interest, which may be fixed or variable, payable on such series of the Bonds; provisions relating to the prepayment of such series of the Bonds; any provisions allowing the registered owners of such series of the Bonds to put or cause the prepayment of such Bonds; the components of the Project on which proceeds of the Bonds of such series shall be expended; the procedures for the sale of such series of the Bonds at a private negotiated sale without advertisement or publication of notice of sale, unless the Resolution shall provide for the sale of such series of the Bonds by the solicitation of competitive bids at public sale, in which case the Resolution shall set forth the procedures for the solicitation of competitive bids at public sale (including any advertising or bidding requirements) and the award of such series of the Bonds to the successful bidder, if appropriate; and all other terms and conditions pursuant to which such series of the Bonds will be issued, sold and delivered. Pursuant to the Resolution, the Council may make any appropriate arrangements in the event any right of the registered owner of a Bond to put or cause the prepayment of such Bond at its option or any change in the interest rate of a Bond or other modification could lead to a reissuance of such

Bond for purposes of the Internal Revenue Code of 1986, as amended. The Resolution may provide for the payment by the Town to the applicable lender of (i) late fees and/or additional interest or penalties in appropriate circumstances and (ii) any ongoing fees or administrative costs. For any series of the Bonds sold to USDA, the Resolution may specify, prescribe, determine, approve or provide for any other matters, documents or security required by such lender for participation by the Town in its financing program. With respect to any series of the Bonds sold to a purchaser or purchasers other than USDA, the Council, pursuant to the Resolution, may authorize, approve or otherwise provide for (i) any commitment fee or similar fee and any other costs payable in connection with such series of the Bonds, and (ii) any other matters, agreements or documents necessary to enhance the marketability of or as security for any such series of the Bonds, including (without limitation) any credit enhancement, liquidity enhancement, ratings, continuing disclosure undertaking required to satisfy the requirements of Securities and Exchange Commission Rule 15c2-12 and disclosure documents or offering documents. With respect to any series of the Bonds sold to the Maryland Water Quality Financing Administration (the "Administration"), the Council, pursuant to the Resolution, may pledge any moneys that the Town is entitled to receive from the State of Maryland, including the Town's share of the State income tax, to secure its obligations under any loan agreement entered into with the Administration in order to satisfy the provisions of Section 9-1606(d) of the Environment Article of the Annotated Code of Maryland, as replaced, supplemented or amended. Any Resolution may specify, prescribe, determine, provide for and approve the details required by this Section 7 for more than one series of the Bonds.

SECTION 8. BE IT FURTHER ORDAINED AND ENACTED that (a) pursuant to the authority of the Bond Anticipation Note Enabling Act and other applicable law, the Town may issue and sell from time to time, upon its full faith and credit, one or more series of its general obligation bond anticipation notes (individually, a "BAN" and, collectively, the "BANs") in an aggregate principal amount not to exceed Ten Million Dollars (\$10,000,000.00) prior to and in anticipation of the sale of any series of the Bonds in order to finance or reimburse costs of the Project (including costs of issuance and, to the extent determined by the Council in a resolution, capitalized interest) on an interim basis. Any such series of the BANs may consist of one or more notes and any note may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the BANs, the Council shall adopt a resolution or resolutions pursuant to the authority of the Bond Anticipation Note Enabling Act, the Charter and this Ordinance authorizing such series of the BANs and containing, determining or providing for the determination of, and approving or providing for the approval of, such matters, details, forms, documents or procedures as may be authorized or required by applicable law, including (without limitation) the components of the Project on which proceeds of such series of the BANs shall be expended. Unless the Council determines otherwise in a resolution or resolutions providing for any series of the BANs, such series of the BANs may be sold by private negotiation, without advertisement or publication of notice of sale or solicitation of competitive bids. Any such sale on a negotiated basis is hereby determined to be in the public interest due to the ability to time the market, negotiate terms and thereby achieve a beneficial rate or rates and other beneficial terms by undertaking a private (negotiated) sale.

(b) As authorized by the Bond Anticipation Note Enabling Act, by resolution the Council may provide for the renewal of any series of the BANs at maturity with or without resale

and/or any amendments or modifications to such series of the BANS, together with any related documentation.

SECTION 9. BE IT FURTHER ORDAINED AND ENACTED that pursuant to the authority of the Refunding Act and other applicable law, the Town is hereby authorized and empowered to issue and sell from time to time, upon its full faith and credit, one or more series of general obligation bonds (individually, a "Refunding Bond" and, collectively, the "Refunding Bonds") for the purpose of refunding or advance refunding any of the Bonds issued pursuant to the authority of this Ordinance then outstanding, including the payment of any prepayment premium and any interest accrued or to accrue to the date of prepayment, purchase or maturity of the Bonds to be refunded, and paying costs and expenses in connection with the issuance, sale and delivery of such Refunding Bonds, and, to the extent determined by the Council in a resolution or resolutions, interest on such Refunding Bonds, for the public purpose of realizing savings to the Town in the aggregate cost of debt service on either a direct comparison or present value basis or in order to accomplish any debt restructuring that is permitted by applicable law; provided that, the aggregate principal amount of any such issue of Refunding Bonds may not exceed one hundred thirty percent (130%) of the aggregate principal amount of the Bonds refunded therefrom. Any such series of the Refunding Bonds may consist of one or more bonds and any bond may be issued in installment form and/or draw-down form. Prior to the issuance, sale and delivery of any series of the Refunding Bonds, the Council shall adopt a resolution or resolutions authorizing such series of the Refunding Bonds and containing, determining or providing for the determination of, and approving or providing for the approval of, such matters, details, forms, documents or procedures as may be authorized or required by applicable law. Unless the Council determines otherwise in a resolution providing for any series of the Refunding Bonds, such series of the Refunding Bonds shall be sold on a negotiated basis without solicitation of bids. Any such sale on a negotiated basis is hereby determined to be in the public interest due to the ability to time the market, negotiate terms and thereby achieve a beneficial rate or rates and other beneficial terms by undertaking a private (negotiated) sale.

SECTION 10. BE IT FURTHER ORDAINED AND ENACTED that the Council is hereby authorized, by a resolution or resolutions, to make any further determinations or approvals or provide for any matters or actions deemed necessary or desirable in connection with the issuance of any series of the BANS or the Refunding Bonds authorized hereby, including, without limitation, (i) any determination authorized by the Bond Anticipation Note Act or the Refunding Act, as applicable, (ii) to commit or provide for the commitment of the Town to pay to the purchaser or purchasers of any series of the BANS or the Refunding Bonds (A) any late fees and/or additional interest or penalties in appropriate circumstances and/or any ongoing fees or administrative costs, (B) any commitment fee or similar fee and any other costs in connection with such purchaser's or purchasers' agreement to purchase such series of the BANS or the Refunding Bonds and/or (C) any breakage compensation or other amount that may be determined to be due to such purchaser or purchasers in the event the Town fails to deliver such series of the BANS or the Refunding Bonds and, in connection therewith, to approve or provide for the approval of, and the execution and delivery of, any agreement relating to such payment or payments (which such agreement may, but shall not be required to be, contained within any purchase or similar agreement for such series of the BANS or the Refunding Bonds), and (iii) to provide for any credit enhancement, liquidity

Underlining : Indicates material added by amendment after introduction  
Strike through : Indicates material deleted by amendment after introduction

enhancement, ratings, disclosure or offering documents or continuing disclosure undertakings relating to such series of the BANs or the Refunding Bonds.

SECTION 11 BE IT FURTHER ORDAINED AND ENACTED that the Council may:

(a) determine by resolution whether any premium paid to the Town upon the sale of any series of the Bonds, the BANs or the Refunding Bonds authorized hereby (each, a series of the "Obligations") shall be applied to the costs for which such obligations are authorized to be issued or to the payment of debt service on such obligations;

(b) determine by resolution whether earnings derived from the investment of the proceeds of any series of the Obligations authorized hereby shall be applied to the purposes for which such obligations are issued or to the payment of debt service on such obligations or treated as general revenues of the Town and applied to general Town purposes; and

(c) by resolution may determine or provide for the making of any determinations deemed necessary or desirable in the event the Project and/or any series of the Obligations authorized hereby are subject to, or issued in accordance with, the provisions of the American Recovery and Reinvestment Act of 2009, as amended (the "ARRA"), or any legislation enacted by the U.S. Congress extending provisions of the ARRA or containing provisions similar to those contained in the ARRA.

SECTION 12. BE IT FURTHER ORDAINED AND ENACTED that (a) the full faith and credit and unlimited taxing power of the Town are hereby irrevocably pledged to the prompt payment of the principal of and interest on each series of the Obligations as and when the same are payable and to the levy and collection of the taxes hereinbelow described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of such series of the Obligations. The Town shall levy or cause to be levied, for each and every fiscal year during which each such series of the Obligations may be outstanding, ad valorem taxes upon all real and tangible personal property within its corporate limits subject to assessment for unlimited municipal taxation in rate and amount sufficient to provide for the payment, when due, of the principal of and interest on such series of the Obligations payable in each such fiscal year and, in the event the proceeds from the collection of the taxes so levied may prove inadequate for such purposes in any fiscal year, additional taxes shall be levied in the subsequent fiscal year to make up any deficiency. The Town hereby covenants with the registered owner of each Obligation to take any action that lawfully may be appropriate from time to time during the period that such Obligation remains outstanding and unpaid to provide the funds necessary to pay promptly the principal and interest due thereon.

(b) Notwithstanding the provisions of subsection (a) above, the principal of and interest on each series of the Obligations will be payable in the first instance from revenues received in connection with the operation of wastewater system, including for use of or connection to such system, and, to the extent required by any applicable lender, from revenues received in connection with the operation of the Town's water supply system, including for use of or connection to such system, all to the extent such revenues are lawfully available for such purpose. To the extent of any



such revenues received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

(c) The foregoing provisions shall not be construed so as to prohibit the Town from paying the principal of and interest on any series of the Obligations from the proceeds of the sale of any other obligations of the Town (including, with respect to any BANs, from proceeds of any Bonds authorized hereby and, with respect to any Bonds, from proceeds of any Refunding Bonds authorized hereby) or from any other funds legally available for that purpose. Subject to any provisions of the Internal Revenue Code of 1986, as amended, and the regulations thereunder applicable to any series of the Obligations issued with the expectation that interest thereon shall be excludable from gross income of the holders thereof for federal income tax purposes, the Town may apply to the payment of the principal of or interest on each series of the Obligations any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the Town for the purpose of assisting the Town in accomplishing the type of project or projects which such series of the Obligations are issued to finance or refinance, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

SECTION 13. BE IT FURTHER ORDAINED AND ENACTED that by a resolution or resolutions, the Council may determine that any of the Bonds, the BANs or the Refunding Bonds authorized hereby may be consolidated with any bonds, bond anticipation notes and/or refunding bonds authorized by the Council and issued as a single series of bonds, bond anticipation notes and/or refunding bonds.

SECTION 14. BE IT FURTHER ORDAINED AND ENACTED that the Mayor, the Town Administrator, the Director of Finance and all other appropriate officials and employees of the Town are hereby authorized and directed to take any and all action necessary to complete and close the issuance, sale and delivery of any series of the Bonds, the BANs or the Refunding Bonds authorized hereby and to approve, execute and deliver all documents, certificates and instruments necessary or appropriate in connection therewith.

SECTION 15. BE IT FURTHER ORDAINED AND ENACTED that the title of this Ordinance shall be published in accordance with the provisions of Section C3-10 of the Charter.

SECTION 16. BE IT FURTHER ORDAINED AND ENACTED that this Ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Mayor or passage by the Council over the Mayor's veto, subject to the provisions of Section C3-12 of the Charter.

[CONTINUED ON NEXT PAGE]

INTRODUCED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

PASSED \_\_\_\_\_ AS INTRODUCED \_\_\_\_\_ AS AMENDED [CHECK  
APPLICABLE LINE] BY THE COUNCIL OF BERLIN BY A VOTE OF \_\_\_\_\_ (YEAS), \_\_\_\_\_  
(NOS), \_\_\_\_\_ (ABSTENTIONS) THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

\_\_\_\_\_  
ANTHONY J. CARSON, JR.  
TOWN ADMINISTRATOR

\_\_\_\_\_  
ELROY BRITTINGHAM, SR.  
VICE PRESIDENT OF THE COUNCIL

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011:

\_\_\_\_\_  
WM. GEE WILLIAMS, III  
MAYOR

EFFECTIVE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2011.

#13558;50016.013

Underlining : Indicates material added by amendment after introduction  
~~Strike through~~ : Indicates material deleted by amendment after introduction

**TOWN ADMINISTRATOR'S REPORT**  
**1-10-11**

**Purchase Orders**

PO# 20110601 in the amount of \$1,167.00 to Bunting and Murray for 1/3 cost for repair to sink hole located in Decatur Farms.

PO# 20110610 in the amount of \$2,600.00 to Lilly's Welding Service for guard rail to be installed on Flower Street.

PO# 20110612 in the amount of \$6,021.00 to Terra Firma to asphalt patching on Washington, West Branch and William Streets.

PO# 20110670 in the amount of \$3,504.00 to Seidel, Baker and Tilghman for legal expenses.

PO# 20110719 in the amount of \$3,499.00 to HB Duvall for salt spreader.

PO# 20110424 in the amount of \$1,091.30 to Waterman for C-16 sheer gate valve for spray site.

PO# 20110724 in the amount of \$2,325.00 to Atlantic Pumping for transportation of sludge to Hurlock.

**Updates**